

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TONY L. MUTSCHLER,)	
)	
Plaintiff,)	Civil Action No. 18-1224
)	
v.)	Judge Cathy Bissoon
)	
JOHN E. WETZEL, <i>et al.</i> ,)	Magistrate Judge Maureen P. Kelly
)	
Defendants.)	

MEMORANDUM ORDER

This case has been referred to United States Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On December 7, 2018, the Magistrate Judge issued a Report (Doc. 11) recommending that Plaintiff's Complaint (Doc. 9)¹ be dismissed under the screening provisions of the Prison Litigation Reform Act ("PLRA"). Specifically, the Report notes Plaintiff's failure to exhaust administrative remedies for the conduct of prison officials and employees alleged in his

¹ Plaintiff filed a document styled as a "Motion to Amend Petition Complaint as as [sic] to Add More Plaintiff [sic] as Now Stated Herein as to. [sic] Replace Original Complaint with New," (Doc. 10), which could be construed as an amended complaint. However, as noted in the Report, this document consists of affidavits of fellow prisoners who seek to join the action but have not filed motions to proceed in forma pauperis or paid their filing fees. As a result, the Court construes this filing as a motion to add new parties and this Motion (Doc. 10) is DENIED, without prejudice, for the reasons stated in the Report. The operative Complaint is the filing at Docket Entry 9.

Complaint. See 28 U.S.C. §§ 1915A, 1915(e)(2)(B); 42 U.S.C. § 1997e. Objections to the Report were due on December 24, 2018, and no objections were filed.²

The Court has conducted a *de novo* review of the pleadings and documents in this case, together with the Report. As the Court finds that Plaintiff has failed to exhaust his administrative remedies, the Court hereby adopts the Magistrate Judge's Report as the opinion of the District Court, as supplemented herein. Accordingly, Plaintiff's Complaint (Doc. 9) is hereby DISMISSED, without prejudice to Plaintiff filing a complaint in a new civil action upon his exhaustion of administrative remedies, as further elaborated in the Report.

IT IS SO ORDERED.

January 28, 2019

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via First-Class U.S. Mail):

TONY L. MUTSCHLER
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² The docket reflects that Plaintiff filed a Notice to the Court on December 7, 2018, which was docketed on December 14, 2018 (Doc. 12). This document notifies the Clerk of Court of several typographical errors in a prior complaint, but contains no reference to the Report.